(40)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION NO. 977 OF 2004

PETITIONERS

1. Dhana Ram Aged 55 years, S/o Ganesh Ram Yadav R/o village – Behardeeh @ Bhadarapali, occupation – choukidar in water resource department office (Quality controle) Seoni Th. Chanpa Distt-Janjagir . (C.G.)
2. Ram dayal Sahu aged 55 years S/o Kariya Sahu occupation – Helper water resource department (Chanpa Bank Canal No. 1) Seoni, Th. Chanpa Distt. Janjgir (C.G.)
3. Chhedu Ram aged abut 55 years. S/o Kartik Ram Sahu Occupation – Choukidar in Pharaswani minor Canal (CBC) Water resource department (Sub devision No. 4) office, Seoni Th. Chanpa R/o Village Sukhari Kala. Th. Chanpa Distt. Janjgir (C.G.)

Versus

RESPONDENTS

1. State of C.G. through Secretary for water resources department, D.K.S. Bhawan, Shastri chowk Raipur, Distt- Raipur (C.G.)
2. Chief Engineer, Hasdeo Bango project, Nehru Chowk, Bilaspur distt. Bilaspur (C.G.)
3. Superintendent engineer Hasdeo Bango project Janjgir distt. Janjgir C.G.
4. S.D.O. Water resource department Devision No. 2 Chanpa distt. Janjgir (C.G.)
5. Assistant research officer (quality control), Sub. Unit Seoni, Th-Chanpa, Distt. Janjgir (C.G.)

Present : Mr. Abhay Tiwari, learned counsel for the petitioners

Mr. Yashwant Singh learned Govt. Advocate for the State.

ORAL ORDER
(Passed on 19th December, 2005)

The petitioners, before their retirement in the year 2004, were working as Choukidar (Watchman) and helper. It is stated that all of them had been working from the year 1988 on daily wage basis. Admittedly,

before the issuance of notification Annexure P-11, dated 16.08.2004, by the Government of Chhattisgarh, the age of superannuation was 55 years. For the first time, the age of superannuation was raised to 60 years by virtue of Annexure – P/11 dated 16.08.2004. All the three petitioners herein were retired from service with effect from 02.04.2004, 25.04.2004 and17.06.2004, respectively.

(2) In this writ petition, the petitioners have sought for a direction to the respondents to permit them to work in their respective posts till they attain the age of 60 years on par with the employees of the Public Health Engineering Department and Public Works Department.

(3) I have heard learned counsel for the parties.

(4) Learned counsel for the petitioners placing reliance on Annexure- P/2 which is a letter of the Superintending Engineer, Water Resources Department at Raipur dated 07.06.2003 and the Government Notification Annexure-P/11, dated 16.08.2004 would contend that the petitioners ought not to have been retired from service before they attained the age of superannuation of 60 years in terms of the above documents.

(5) I have perused the above documents. It is true that vide Annexure-P/2, Superintending Engineer, Water Resources Department at Raipur had recommended to increase the age of superannuation from 55 years to 60 years, but, the fact remains that the Government on consideration of recommendation and all other attendant circumstances took a policy decision to raise the age of superannuation from 55 years to 60 years vide notification Annexure P/11 dated 16.08.2004. At this stage itself, it needs to be noticed that Annexure-P/11 was not brought into force retrospectively and it has only prospective operation. The

recommendation of Superintending Engineer made on 07.06.2003 itself would not invest any enforceable right in the petitioners to insist that they should have been continued in service till they attained age of 60 years. Secondly, by the time Annexure-P/11 was issued by the State Government on 16.08.2004, all the three petitioners had retired on attaining the age of 55 years in terms of the earlier regulations governing their service.

(6) In the result, I do not find any merit in this writ petition. It is accordingly dismissed, however, with no order as to costs.

Sd/-
Chief Justice

Subby